



Sen. Don Harmon

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1 AMENDMENT TO HOUSE BILL 2897

2 AMENDMENT NO. _____. Amend House Bill 2897, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the Cook
6 County Drug Analysis Field Test Pilot Program Act.

7 Section 5. Legislative findings and intent.

8 (a) The General Assembly finds that:

9 (1) The Cook County Jail consistently faces
10 overcrowding issues, with the total persons held in custody
11 often near or exceeding the jail's capacity limits.

12 (2) The Cook County Jail population includes
13 defendants held in custody, pending a preliminary
14 examination to determine whether there is probable cause to
15 believe that the defendant committed a criminal offense.

16 (3) Each person held in custody at the Cook County Jail

1 costs the taxpayers of Cook County at least an estimated
2 \$143 per day, with even higher costs for those people in
3 custody who require mental health treatment and services.

4 (4) If a person in custody is awaiting preliminary
5 examination on an illegal substance offense in Cook County,
6 the preliminary examination will not commence until the
7 Cook County State's Attorney has received a drug chemistry
8 laboratory report from the Department of State Police
9 Division of Forensic Services indicating that a recovered
10 substance in fact tested positive as an illegal substance.
11 This process can take several weeks.

12 (5) Drug analysis field test devices are not currently
13 utilized by law enforcement agencies in Cook County for
14 preliminary examinations. If utilized, drug analysis field
15 test devices may allow the Cook County State's Attorney to
16 immediately determine whether probable cause exists to
17 believe that a recovered substance is an illegal drug or
18 narcotic.

19 (b) It is the intent of the General Assembly to create a
20 pilot program making drug analysis field test devices available
21 for use by law enforcement agencies within Cook County. It is
22 also the intent of the General Assembly to explicitly allow the
23 Cook County State's Attorney to use drug analysis field tests
24 to establish probable cause at a preliminary examination, in
25 lieu of waiting for the Department of State Police drug
26 chemistry reports.

1 Section 10. Definitions. For purposes of this Act:

2 "Cannabis" has the meaning ascribed to it in Section 3 of
3 the Cannabis Control Act.

4 "Cocaine" is the same as described in paragraph (4) of
5 subsection (b) of Section 206 of the Illinois Controlled
6 Substances Act.

7 "Heroin" is the same as described in Section 204 of the
8 Illinois Controlled Substances Act.

9 "Pilot Program" means the Cook County Drug Analysis Field
10 Test Pilot Program.

11 Section 15. Establishment of the pilot program.

12 (a) The Cook County Drug Analysis Field Test Pilot Program
13 is hereby authorized. The Pilot Program shall assess whether
14 the use of field tests in Cook County will:

15 (1) reduce the number of days a person would otherwise
16 remain in custody awaiting drug chemistry reports;

17 (2) result in expedited preliminary examinations for
18 cannabis, cocaine, or heroin offenses; and

19 (3) reduce the overall Cook County Jail population at a
20 substantial cost savings to Cook County taxpayers.

21 (b) Within 30 days after the effective date of this Act,
22 the Superintendent of Police for the City of Chicago shall
23 create a pilot program that allows officers to use drug
24 analysis field test devices for use in both Branch 38 and

1 Branch 50 of the Circuit Court of Cook County to determine
2 whether a recovered substance is illegal cannabis, cocaine, or
3 heroin. The Superintendent shall provide field test training
4 and inventory procedures consistent with this purpose.

5 (c) But for good cause shown, the results of each field
6 test performed under this Pilot Program shall be documented and
7 offered by the Cook County State's Attorney as evidence to
8 determine probable cause at a preliminary examination.

9 (d) For purposes of the preliminary examination only, the
10 field test results shall be used in lieu of drug chemistry
11 laboratory reports from the Department of State Police Division
12 of Forensic Services. Where field test results indicate a
13 recovered substance has tested positive for the presence of
14 cannabis, cocaine, or heroin, the Cook County State's Attorney
15 shall proceed to a preliminary examination as soon as
16 practicable, regardless as to whether drug chemistry
17 laboratory reports are available.

18 (e) For purposes of determining probable cause at a
19 preliminary examination under Section 109-3 of the Code of
20 Criminal Procedure of 1963 and in accordance with this Pilot
21 Program:

22 (1) Evidence of results of a properly performed drug
23 analysis field test is admissible in a preliminary
24 examination solely to establish that the substance tested
25 is cannabis, cocaine, or heroin.

26 (2) Evidence of results of a properly performed drug

1 analysis field test is sufficient to establish that the
2 substance tested is cannabis, cocaine, or heroin for the
3 purposes of a preliminary examination.

4 Section 20. Data collection. The Superintendent of Police
5 for the City of Chicago shall notify the Director of the Cook
6 County Department of Corrections each time a defendant is
7 entered into custody subject to a drug analysis field test. The
8 Superintendent, Cook County State's Attorney, and Director of
9 the Cook County Department of Corrections shall tally the
10 number of days each defendant remains in custody as part of the
11 Pilot Program from arrest until preliminary examination and
12 report this information to the Pilot Program Study Committee.

13 Section 25. Duration. The Pilot Program shall operate one
14 year from the later of September 1, 2014 or 30 days after the
15 effective date of this Act.

16 Section 30. Pilot Program Study Committee.

17 (a) The Superintendent of Police for the City of Chicago,
18 Cook County State's Attorney, the head of the Division of
19 Forensic Services of the Department of State Police, Executive
20 Director of the Cook County Justice Advisory Council, and
21 Director of the Cook County Department of Corrections shall
22 each appoint one member to the Pilot Program Study Committee no
23 later than 30 days after the effective date of this Act. The

1 Cook County Board President shall appoint one member of a
2 community based organization to the Pilot Program Study
3 Committee no later than 30 days after the effective date of
4 this Act.

5 (b) The Committee may seek research or staff support of
6 advocacy and policy groups to assist in the evaluation of the
7 Pilot Program.

8 (c) The Pilot Program Study Committee shall submit
9 preliminary reports to the General Assembly on a quarterly
10 basis. The reports shall include:

11 (1) the number of persons entered into custody subject
12 to a drug analysis field test;

13 (2) the number of persons released from custody at any
14 point before a preliminary examination subject to a drug
15 analysis field test;

16 (3) the number of days each defendant remains in
17 custody from arrest until preliminary examination; and

18 (4) any other information the Study Committee deems
19 relevant.

20 The preliminary reports shall be submitted to the General
21 Assembly on: December 31, 2014; March 31, 2015; and June 30,
22 2015.

23 (d) Upon conclusion of the Pilot Program, the Pilot Program
24 Study Committee shall issue a final report to the General
25 Assembly, evaluating and analyzing the following to the fullest
26 extent possible, but subject to available resources:

1 (1) the length of custody in the Cook County Jail for a
2 cannabis, cocaine, or heroin offender under the Cook County
3 Drug Analysis Field Test Pilot Program, as compared to a
4 similarly situated drug or narcotics offender not under the
5 Cook County Drug Analysis Field Test Pilot Program;

6 (2) the economic impact of using drug analysis field
7 tests in lieu of drug chemistry laboratory reports for
8 preliminary examinations;

9 (3) the impact on the Cook County Jail population as a
10 result of using drug analysis field tests, and the
11 estimated jail population impact if drug analysis field
12 tests were expanded for use in all drug-related preliminary
13 examinations; and

14 (4) the proposed findings and recommendations on the
15 use and efficacy of drug analysis field tests in Cook
16 County.

17 (e) The Committee shall hold regularly scheduled meetings
18 and make minutes publicly accessible.

19 (f) The final report shall be submitted to the General
20 Assembly on or before the later of November 1, 2015 or 60 days
21 after the conclusion of the Pilot Program.

22 (g) If the final report is not submitted to the General
23 Assembly by the date designated in subsection (f) of this
24 Section, the amount of time that a person may be held in
25 custody in Cook County awaiting a preliminary examination,
26 under Section 109-3.1 of the Code of Criminal Procedure, shall

1 be reduced from 30 days to 10 days.

2 (h) Upon issuance of the report required under this
3 Section, the Pilot Program Study Committee shall dissolve.

4 Section 35. Appropriations. The General Assembly may
5 appropriate funds to the Chicago Police Department, to be used
6 solely for the purchase of drug analysis field tests and to
7 carry out obligations of the Cook County Drug Analysis Field
8 Test Pilot Program, including, but not limited to, the
9 preparation and submission of reports to the General Assembly.

10 Section 40. Repeal. This Act is repealed on January 1,
11 2016.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law".